

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HONORABLE AVERN COHN

No. 05-80955-2

DEMETRIUS EDWARD FLENORY (2),

Defendant.

_____/

PLEA HEARING

Monday, November 19, 2007

Appearances:

Michael C. Leibson
Dawn N. Ison
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On behalf of Plaintiff

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On behalf of Defendant

- - -
To obtain a certified transcript, contact:
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*Proceedings recorded by mechanical stenography.
Transcript produced by computer-aided transcription.*

Plea Hearing
Monday, November 19, 2007

I N D E X

<u>Plea Hearing</u>	<u>Page</u>
Factual Basis for the Plea	11
Findings of the Court	15
Certification of Reporter	16

- - -

Plea Hearing
Monday, November 19, 2007

3

Detroit, Michigan

Monday, November 19, 2007

2:08 p.m.

- - -

THE CLERK: Now calling Case Number 05-80955,
United States of America v. Demetrius Flenory, Defendant
Number 2. Will counsel please identify themselves for the
record.

MS. ISON: For the record, Your Honor, Dawn Ison
for the government and Michael Leibson.

MR. FEINBERG: James L. Feinberg, Drew Findling,
and Alixe Steinmetz for Mr. Flenory, and Mr. Flenory is to
my left.

THE COURT: I recognize him by the color of his
clothing.

You are Demetrius Flenory?

THE DEFENDANT: Yes.

THE COURT: You are the person named in the
indictment returned October 20, 2005?

THE DEFENDANT: Yes, sir.

THE COURT: And you are here to plead guilty to
Counts 3 and 10?

THE DEFENDANT: Yes.

THE COURT: Before accepting your plea I have a
number of questions to ask to be sure it's a good plea and

Plea Hearing
Monday, November 19, 2007

4

1 you know what you are doing. If you don't understand a
2 question, say so. If you want to talk to your lawyer, say
3 so.

4 Swear the defendant.

5 **THE CLERK:** Raise your right hand.

6 - - -

7 **DEMETRIUS FLENORY,**

8 being first duly sworn by the deputy clerk to
9 tell the truth, was examined and testified
10 upon his oath as follows:

11 **THE COURT:** Do you understand if you don't answer
12 a question truthfully you can be charged with perjury?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** How old are you, sir?

15 **THE DEFENDANT:** 39.

16 **THE COURT:** How far did you go in school?

17 **THE DEFENDANT:** 10th grade.

18 **THE COURT:** Have you ever been under a doctor's
19 care or in a hospital for drug addiction?

20 **THE DEFENDANT:** No.

21 **THE COURT:** Have you had any drugs or medicine or
22 anything to drink in the last 24 hours?

23 **THE DEFENDANT:** No. Well, I had an acid reflux
24 pill.

25 **THE COURT:** Okay. Do you have a lawyer?

Plea Hearing
Monday, November 19, 2007

5

1 **THE DEFENDANT:** No. A wire, what?

2 **THE COURT:** A lawyer.

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** You have a lawyer, right? Right?

5 **THE DEFENDANT:** I have a lawyer, yes.

6 **THE COURT:** Okay. Have you had a chance to talk
7 to your lawyers?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** And you are satisfied with them?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** You understand that under our
12 Constitution and laws you are entitled to a jury trial on
13 the charges against you?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** You understand if there was a trial
16 you would be presumed innocent, the government would have to
17 overcome the presumption, prove you guilty by competent
18 evidence beyond a reasonable doubt, and you would not have
19 to prove you were innocent?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** Do you understand if there was a trial
22 witnesses for the government would have to come in the
23 courtroom and testify in front of you, your lawyer could
24 cross-examine the witnesses, object to the evidence offered
25 by the government, and offer evidence on your behalf?

Plea Hearing
Monday, November 19, 2007

6

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** You understand if there was a trial
3 you would have the right to use subpoenas to force the
4 attendance of witnesses whether they wanted to come into the
5 courtroom or not?

6 **THE DEFENDANT:** Yes.

7 **THE COURT:** You understand if there was a trial
8 you would have the right to testify if you wanted to, you
9 would have the right not to testify, and no inference or
10 suggestion of guilt could be drawn from the fact that you
11 did not testify?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** You understand if you plead guilty and
14 I accept your plea you waive your right to a trial and all
15 of the other rights I have described, there is not going to
16 be a trial, and I will simply enter a judgment of guilty and
17 sentence you on the basis of your guilty plea?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** If you plead guilty you also
20 understand you waive your right not to incriminate yourself
21 since I may ask you questions about what you did to satisfy
22 myself that you are guilty and you will have to acknowledge
23 the fact that you are guilty?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** Considering all that I have said, are

Plea Hearing
Monday, November 19, 2007

7

1 you willing to give up all of these rights and plead guilty?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Have you read the indictment?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** Have you discussed with your lawyer
6 the charges, particularly Counts 3 and 10 which you intend
7 to plead guilty to?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** In Count 3 the offense is continuing
10 criminal enterprise. Do you know what the maximum
11 punishment under law is for that?

12 **THE DEFENDANT:** Yes, life.

13 **THE COURT:** Count 10 is money laundering. Do you
14 know what the maximum punishment under the law is for that?

15 **THE DEFENDANT:** I think 20.

16 **THE COURT:** That's right. Has anyone threatened
17 you or forced you to plead guilty?

18 **THE DEFENDANT:** No, sir.

19 **THE COURT:** There has been a plea agreement --

20 **MS. ISON:** On the CCE, Your Honor, there is a
21 mandatory minimum as well.

22 **THE COURT:** Okay. Well, all I asked him is if he
23 understands the maximum under the law.

24 There has been a plea agreement between you and
25 the government, right?

*Plea Hearing
Monday, November 19, 2007*

8

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** What's your understanding of the
3 agreement?

4 **THE DEFENDANT:** That I won't be enhanced.

5 **THE COURT:** Pardon?

6 **THE DEFENDANT:** That I couldn't be --

7 **THE COURT:** Well, first of all, what's the
8 sentencing range?

9 **THE DEFENDANT:** 30 to life.

10 **THE COURT:** And that's on the basis of guidelines?

11 **THE DEFENDANT:** Right.

12 **THE COURT:** That's a recommended?

13 **THE DEFENDANT:** Right.

14 **THE COURT:** And that takes into account your
15 criminal history and the nature of your offenses?

16 **THE DEFENDANT:** Right.

17 **THE COURT:** And there's a minimum, right?

18 **THE DEFENDANT:** 30.

19 **THE COURT:** 20 years, right?

20 **MS. ISON:** That's by statute, Your Honor.

21 **THE COURT:** By law, but there's also a provision
22 in the agreement, isn't there, that I can't --

23 **MR. FEINBERG:** No, the agreement is that the
24 guidelines are 30 to life, but --

25 **THE COURT:** Let me do it.

Plea Hearing
Monday, November 19, 2007

9

1 **MR. FEINBERG:** Okay. I'm sorry.

2 **THE COURT:** You know, that's why I took the job.

3 However, the Court must impose a sentence of
4 imprisonment on Count 3 of at least 20 years.

5 **MR. FEINBERG:** Yes.

6 **THE COURT:** That's a provision of the agreement,
7 right?

8 **MR. FEINBERG:** Yes.

9 **THE DEFENDANT:** On both counts.

10 **THE COURT:** Well, I understand, but there is a
11 provision that I have to give you at least 20 years?

12 **THE DEFENDANT:** Right.

13 **THE COURT:** And if I don't the government can
14 withdraw from this deal?

15 **THE DEFENDANT:** Right.

16 **THE COURT:** Okay. When you go to prison after you
17 get out there's a period of supervised release?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Right?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** There is also a \$200 special
22 assessment, right?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** And I can impose a fine on either
25 count up to \$250,000, right?

Plea Hearing
Monday, November 19, 2007

10

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** And if I let you withdraw your guilty
3 plea for any reason, they can use these statements made here
4 today against you, right?

5 **THE DEFENDANT:** I guess, yes.

6 **THE COURT:** Okay. And there is also a forfeiture,
7 but there is nothing specific set forth in the forfeiture,
8 right?

9 **THE DEFENDANT:** Right.

10 **THE COURT:** And if I accept this agreement and we
11 go forward, any other charges against you are dismissed,
12 right?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** And if we don't exceed what the
15 agreement says, you have no right to appeal, right?

16 **THE DEFENDANT:** Right.

17 **THE COURT:** And if it should turn out that your
18 criminal history is different than that which you have all
19 agreed upon, I can go higher, right, but you can't get out
20 of it?

21 **THE DEFENDANT:** Go higher than what, 30?

22 **THE COURT:** Yeah. I don't know how I can go
23 higher because I think that -- but there is that provision,
24 is there not?

25 **MR. LEIBSON:** There is. It's a standard

Plea Hearing
Monday, November 19, 2007

11

1 provision, but it's essentially moot.

2 **THE COURT:** What? You agreed that his criminal
3 history is 2?

4 **MR. LEIBSON:** Yes.

5 **THE COURT:** Okay.

6 **MS. ISON:** Yes, Your Honor.

7 **THE COURT:** Okay. Have we now gone over the
8 agreement?

9 **MS. ISON:** Yes.

10 **MR. FEINBERG:** Yes.

11 **THE COURT:** Has anyone made any promises to you
12 other than this plea agreement to get you to plead guilty?

13 **THE DEFENDANT:** No.

14 **THE COURT:** You know I'm not obligated to accept
15 this agreement, and if I don't, I'll tell you here in open
16 court, in which event you can continue your plea or withdraw
17 it, but I'm not bound by it?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Has anyone made any prediction or
20 prophesy or promise to you as to what I'm going to do?

21 **THE DEFENDANT:** No.

22 **THE COURT:** Did you, as charged in Count 3, engage
23 in a continuing criminal enterprise?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** What did you do?

Plea Hearing
Monday, November 19, 2007

12

1 **THE DEFENDANT:** I --

2 **THE COURT:** You don't have to go into all of the
3 details, but briefly.

4 **THE DEFENDANT:** I just, I was the leader of a few
5 individuals that was involved in the case.

6 **THE COURT:** You were a leader of a group of people
7 who were involved --

8 **THE DEFENDANT:** Yeah, I supervised them.

9 **THE COURT:** Supervised them. Involved in dealing
10 in controlled substances?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** And laundering money?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** And it was an extensive operation?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** It lasted a long time?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Okay. And part of it took place here
19 in Michigan, right?

20 **THE DEFENDANT:** Yes.

21 **THE COURT:** And you used telephones and other
22 sorts of things, right?

23 **THE DEFENDANT:** Yeah. I didn't use no telephones,
24 but --

25 **THE COURT:** You didn't, but others did?

Plea Hearing
Monday, November 19, 2007

13

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** You knew what was going on?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** And you made money on it?

5 **THE DEFENDANT:** Yes.

6 **THE COURT:** Do you have anything more, Ms. Ison,
7 on Count 3?

8 **MR. LEIBSON:** Yes.

9 **THE COURT:** Go ahead.

10 **MR. LEIBSON:** Would the defendant admit that he
11 supervised at least five other individuals that are named on
12 the indictment?

13 **THE DEFENDANT:** Yes, I did.

14 **MR. LEIBSON:** And that there were at least
15 three transactions that violated Title 21, that is, either
16 cocaine distribution or phone counts, and that he as part of
17 this was involved in at least three of those?

18 **THE DEFENDANT:** Yes.

19 **THE COURT:** Okay. Count 10 charges you with money
20 laundering. Did you engage in money laundering?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** Tell me what you did.

23 **THE DEFENDANT:** I bought a couple of vehicles.

24 **THE COURT:** Well, you took drug proceeds?

25 **THE DEFENDANT:** Yes.

Plea Hearing
Monday, November 19, 2007

14

1 **THE COURT:** Cash?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** And you bought things with it?

4 **THE DEFENDANT:** Yes.

5 **THE COURT:** And, by the way, both on Count 3 and
6 Count 10 you knew this was against the law?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** Anything more?

9 **MS. ISON:** You also purchased real estate in
10 others' names, is that correct, or others purchased real
11 estate on your behalf?

12 **THE DEFENDANT:** Yeah, I leased real estate. I
13 didn't purchase it. I leased it.

14 **MS. ISON:** Did others purchase real estate on your
15 behalf?

16 **THE DEFENDANT:** Yes.

17 **MS. ISON:** And those properties were purchased
18 with drug proceeds?

19 **THE DEFENDANT:** Yes.

20 **MS. ISON:** Okay. And you received a substantial
21 amount of income from your involvement in this conspiracy;
22 is that right?

23 **THE DEFENDANT:** Yes.

24 **MS. ISON:** And you were one of the principal
25 leaders of this organization; is that right?

Plea Hearing
Monday, November 19, 2007

15

1 **THE DEFENDANT:** Yes.

2 **THE COURT:** Anything more?

3 **MS. ISON:** I think that does it, Your Honor.

4 **THE COURT:** What?

5 **MS. ISON:** I think that's it.

6 **THE COURT:** Since you acknowledge you are in fact
7 guilty as charged in Count 3 and in Count 10; since you know
8 you have a right to trial and what the maximum punishment
9 is; since you are voluntarily pleading guilty, I accept your
10 plea and enter a judgment of guilty.

11 I find your plea is free and voluntary, you
12 understand the charges and penalties, the plea agreement has
13 been properly executed, and there is a factual basis for the
14 pleas.

15 The clerk is ordered to enter the pleas of guilty.
16 You now stand convicted on Counts 3 and 10. I'm going to
17 obtain a presentence investigation report. Your lawyers
18 will explain to you what that is. You will be expected to
19 cooperate with the probation officer in furnishing
20 information for the report and you will be expected to be
21 back here for the time and date set for your sentencing. If
22 you are in custody, I'm sure you will be. Thank you.

23 **MR. FEINBERG:** Thank you, Judge.

24 **MR. FINDLING:** Your Honor, I do want to let you
25 know because we have talked about this before, we have

Plea Hearing
Monday, November 19, 2007

16

1 talked with the government and they have talked with the
2 U.S. Attorney's Office in the Eastern District of Texas.
3 Immediately after the sentencing in this case our
4 understanding is that that U.S. Attorney's Office will
5 dismiss the federal case in the Eastern District of Texas.

6 **MS. ISON:** That is correct, Your Honor.

7 **THE COURT:** Okay. That's part of the agreement?

8 **MS. ISON:** Yes, Your Honor.

9 **MR. FEINBERG:** Thank you, Judge.

10 **THE COURT:** Thank you.


11 (Proceedings concluded at 2:17 p.m.)

12 - - -

13 **C E R T I F I C A T I O N**

14 I, Sheri K. Ward, official court reporter for the
15 United States District Court, Eastern District of
16 Michigan, Southern Division, appointed pursuant to the
17 provisions of Title 28, United States Code, Section 753,
18 do hereby certify that the foregoing is a correct
19 transcript of the proceedings in the above-entitled cause
20 on the date hereinbefore set forth.

21 I do further certify that the foregoing
22 transcript has been prepared by me or under my direction.
23

24 
25 Sheri K. Ward
Official Court Reporter

October 3, 2008
Date Completed